

STATE OF MICHIGAN
COURT OF APPEALS

In re F.G., Minor.

F.G., a minor,

Petitioner-Appellant,

v

WASHTENAW COUNTY CIRCUIT COURT,

Respondent-Appellee.

FOR PUBLICATION

November 23, 2004

9:05 a.m.

No. 249039

Washtenaw Circuit Court

LC No. 00-000658-AV

Official Reported Version

Before: Cooper, P.J., and Fitzgerald and Hoekstra, JJ.

FITZGERALD, J.

Petitioner FG appeals by leave granted a circuit court order affirming the probate court's denial of her petition to review her closed file relating to judicial bypass proceedings in which she participated as a minor pursuant to the Parental Rights Restoration Act (PRRA), MCL 722.901 *et seq.* We reverse.

I. Facts and Procedural History

In the fall of 1996, when petitioner was fifteen years old, she successfully petitioned the probate court for a waiver of parental consent to obtain an abortion under the PRRA and former MCR 5.783, now MCR 3.615.¹ As required by MCR 3.615(B), petitioner's file was sealed at the conclusion of the proceedings.² Subsequently, petitioner had the requested abortion.

In 2000, after petitioner reached the age of majority, she petitioned the probate court to open her file for her review pursuant to MCR 3.615(B)(3). Petitioner claimed that she was suffering from mental illness during the bypass proceedings and at the time of her abortion. She contends that, because of her illness and prescribed medication, she has only a vague memory of

¹ MCR 5.783 has since been replaced by MCR 3.615, which is identical in all respects.

² Petitioner is also referred to by her initials to preserve her confidentiality under this provision.

these events. On account of her alleged impaired recollection, petitioner wished to determine from the probate court file whether she knowingly sought the waiver of parental consent and consented to the abortion, and whether her rights had been violated during the proceedings giving rise to a cause of action.³ The probate court denied petitioner's request, finding that she failed to establish "good cause" to open the file as required by the court rule. The court reasoned that because the probate court's role was to determine whether petitioner was mature enough and had sufficient knowledge and understanding to waive parental consent, MCL 722.904(3)(a), the record would not contain the sought-after information regarding the quality of petitioner's decisions.

Petitioner appealed to the circuit court.⁴ Petitioner indicated to the circuit court that she wished to review her file to determine what information the probate court received from her social worker and attorney and considered regarding her history of mental illness and treatment in granting the waiver. The circuit court determined that the probate court had not abused its discretion in determining that petitioner failed to establish good cause to open her file. This appeal followed.⁵

II. Standard of Review

Petitioner contends that the circuit court improperly reviewed the probate court's decision for an abuse of discretion. The probate court determined that petitioner failed to establish good cause to open her file pursuant to MCR 3.615(B)(3). As the decision involves the interpretation of a court rule, petitioner asserts that the circuit court should have reviewed the decision de novo. Whether the circuit court applied the correct standard of review is a question of law that we review de novo. *Arthur Land Co, LLC v Otsego Co*, 249 Mich App 650, 661-662; 645 NW2d 50 (2002); *Palo Group Foster Care, Inc v Dep't of Social Services*, 228 Mich App 140, 145; 577 NW2d 200 (1998).⁶

MCR 3.615(B)(3) provides:

³ Petitioner was given the opportunity to review her file with the agency that conducted her abortion, but was unable to glean any relevant information.

⁴ The circuit court originally found that it lacked jurisdiction over the appeal and directed the filing to this Court. However, a panel of this Court vacated that order and remanded for a determination on the merits. Unpublished order of the Court of Appeals, entered February 1, 2002 (Docket Number 238267).

⁵ A panel of this Court initially denied petitioner's application for leave to appeal. Unpublished order, entered September 6, 2002 (Docket No. 242202). In lieu of granting leave to appeal, the Michigan Supreme Court remanded to this Court for consideration as on leave granted. 468 Mich 919 (2003).

⁶ Many of the appellate rules, MCR 7.101 *et seq.*, apply equally to the circuit court when taking an appeal from the probate court. MCR 7.101(A)(1). Accordingly, we find no reason to distinguish between the circuit court's appellate role and that of this Court.

The court shall maintain only one file of all papers for each case. The file shall be inspected only by the judge, specifically authorized court personnel, the minor, her attorney, her next friend, the guardian ad litem, and any other person authorized by the minor. After the proceedings are completed, the file may be opened only by order of the court for good cause shown and only for a purpose specified in the order of the court.

The probate court determined that petitioner had not shown good cause to open her file. However, the term "good cause" is not defined by the court rule. The interpretation of a court rule, like a question of statutory construction, is subject to review de novo on appeal. *St George Greek Orthodox Church of Southgate v Laupmanis Assoc, PC*, 204 Mich App 278, 282; 514 NW2d 516 (1994). The construction of the term "good cause" is also a question of law subject to review de novo. See generally *Daniels v Allen Industries, Inc*, 391 Mich 398; 216 NW2d 762 (1974), superseded by statute in *Davis v O'Brien*, 152 Mich App 495; 393 NW2d 914 (1986). See also *Richards v McNamee*, 240 Mich App 444, 447, 451-453; 613 NW2d 366 (2000). Furthermore, it is well settled that when there is no dispute concerning the underlying facts, the questions presented on appeal are to be treated as questions of law. *Capac Bus Drivers Ass'n v Capac Community Schools Bd of Ed*, 140 Mich App 542, 547; 364 NW2d 739 (1985); *Robinson v Young Men's Christian Ass'n*, 123 Mich App 442, 445; 333 NW2d 306 (1983). The only issue before the probate court was whether the facts presented, which were not in dispute, were legally sufficient to constitute "good cause" pursuant to the court rule. Accordingly, the circuit court erred in failing to review the probate court's decision de novo.⁷

III. Good Cause

Petitioner challenges the circuit court's affirmation of the probate court's finding that she failed to establish good cause to open her file pursuant to MCR 3.615(B)(3). First, we must determine the definition of "good cause" as used in the court rule. We must give effect to a statute or court rule as written when its language is clear and unambiguous. *People v Morey*, 461 Mich 325, 329-330; 603 NW2d 250 (1999). In construing ambiguous language, every word or phrase, unless specifically defined, should be given its plain and ordinary meaning, considering the context in which the words are used. *Yaldo v North Pointe Ins Co*, 457 Mich 341, 346; 578 NW2d 274 (1998); *Lewis v LeGrow*, 258 Mich App 175, 183; 670 NW2d 675 (2003). The court may consult a dictionary to determine the ordinary meaning of undefined words in a statute or court rule. *Lewis, supra* at 183; *In re Complaint of Knox*, 255 Mich App 454, 460; 660 NW2d 777 (2003); *St George Greek Orthodox Church, supra* at 282. Also, "[t]he

⁷ The circuit court relied on *In re Dixon*, 116 Mich App 763; 323 NW2d 549 (1982), remanded by 417 Mich 986 (1983), in support of its application of the abuse of discretion standard. In *Dixon*, this Court upheld a probate court determination that the petitioner had not shown good cause to open adoption records. Although the standard applied was not referenced by name, this Court first reviewed de novo the probate court's interpretation of the applicable statute, finding that the good cause determination required a balancing of the respective interests. 116 Mich App 768. This Court then afforded the probate court's balancing of those interests the more deferential abuse of discretion standard. *Id.* at 771.

court must consider the object of the statute [or court rule], the harm it is designed to remedy, and apply a reasonable construction [that] best accomplishes the statute's [or rule's] purpose, but should also always use common sense." *Morris & Doherty, PC v Lockwood*, 259 Mich App 38, 44; 672 NW2d 884 (2003). Courts should seek to avoid a construction that would produce absurd results, injustice, or prejudice to the public interest and should strive to be logical and best accomplish the statute's or rule's purpose. *Id.*

As the court rule fails to define "good cause," we turn to the dictionary and case law for assistance. Black's Law Dictionary (7th ed) currently defines "good cause" as "[a] legally sufficient reason." Similarly, this Court has defined "good cause" as "a substantial reason amounting in law to a legal excuse for failing to perform an act required by law." *Richards, supra* at 452, citing *Franchise Mgt Unlimited, Inc v America's Favorite Chicken*, 221 Mich App 239, 246; 561 NW2d 123 (1997), quoting Black's Law Dictionary (6th ed) (*Franchise Mgt* was vacated on other grounds 459 Mich 954 [1999]). Following these definitions, petitioner must show a legally sufficient or substantial reason for opening her file consistent with the purpose of MCR 3.615(B).

The purpose of MCR 3.615(B) is to protect the confidentiality of a minor seeking to obtain a waiver of parental consent for an abortion. See MCR 3.615(B)(1) ("The court shall assure the confidentiality of the file, the assistance given the minor by court personnel, and the proceedings"). The rule protects the file and the minor's identifying information from disclosure to persons other than the judge and specifically authorized court personnel, as well as the minor herself and those acting with her authorization. The rule further provides that the file shall be closed at the conclusion of the proceedings and may only be opened by order of the court upon a showing of good cause. MCR 3.615(B)(3).

Petitioner sought to reopen her file to determine whether she voluntarily sought the waiver of parental consent, whether she voluntarily consented to an abortion, whether any of her rights were violated, and whether she has any causes of action arising from the proceedings. She explained that she was under medical treatment for psychiatric disturbances and mental illness, for which she was receiving treatment (including medication) at the time of the proceedings. Petitioner indicates that, as a result of the treatment, she has only a vague recollection of the waiver proceedings. Respondent does not challenge the factual allegations made by petitioner that "she was under medical treatment" and that she "only has a vague recollection" of the waiver proceedings. Petitioner asserts that her mental illness and resulting treatment was information that should have been provided to and considered by the probate court during the waiver proceedings and she seeks to determine what information she, her former attorney, and her former social worker gave the court regarding her mental conditions. Petitioner's reasons for seeking to review her file are legally sufficient to constitute good cause under MCR 3.615(B)(3), and her confidentiality will not be compromised as a result of allowing her to review the file.⁸

⁸ The circuit court relied on *Dixon* in affirming the probate court's decision. However, *Dixon* does not provide an appropriate analytical framework for this case. There, this Court provided that the determination whether good cause had been shown to open adoption files required a

(continued...)

Reversed.

Hoekstra, J., concurred.

/s/ E. Thomas Fitzgerald

/s/ Joel P. Hoekstra

(...continued)

balancing test between the competing interests of the adoptee, the biological parents, and the state. *Dixon, supra* at 768. In the instant matter, there are no competing interests to balance. Rather, the state's only interest, as expressed in MCR 3.615(B)(3) is in protecting the confidentiality of the minor and the proceedings. The minor's interest also is in having her confidentiality preserved. Thus, the interests of petitioner and of the state are essentially the same. Therefore, *Dixon* is inapposite.